

Enquiry into
objection.

If within the time specified any objection is preferred, the Magistrate of the District shall inquire into the objection, and pass such order as may appear proper under the circumstances of the case.

5. [Markets and fairs established prior to passing of Act.] *Rep. Act XII of 1876.*

Appeal.

6. Every order passed by a ¹[District Magistrate] under ¹[section 4] shall, within six weeks, be open to appeal to the Commissioner ¹* * * and the order of the Commissioner shall be final.

Penalty for
contravening,
disobeying or
opposing
order.

7. Every person who shall contravene, disobey or oppose any order duly made under this Act shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment ²* * * * * for any period not exceeding two ²* months.

Extent.

8. This Act shall not extend to the Islands of Bombay and Kolāba.

Exemption of
religious
assemblages.

9. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in, the inauguration of sacred edifices, or collected at, or concerned in, any other religious festivals or ceremonies not forming a part of a fair or market.

Saving of
general
powers of
Government,||

10. Nothing in this Act shall be held to restrict the general powers of Government to control the orders of the ¹[District Magistrate] or Commissioner ¹* * * in regard to markets or fairs.

11. [Meaning of "Magistrate."] *Rep. Bom. Act III of 1886.*

BOMBAY ACT No. V of 1862 ³.

[24th April, 1862.]

An Act for the preservation of the Bhāgdārī and Narwādārī Tenures.

Preamble.

WHEREAS it has been found that the permanence of the tenures known as the bhāgdārī and narwādārī tenures, which have existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing

¹ The words "District Magistrate" and the word and figure "section 4" were substituted for "Magistrate" and "this Act," respectively, and the words "of Police" after the word "Commissioner" in ss. 6 and 10 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

² The words "of either kind" after the word "imprisonment" and the word "calendar" after the word "two" in s. 7 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

³ No Statement of Objects and Reasons was published. For the Bill as introduced, see Bombay Government Gazette, 1862, Supplement, p. 51; for Report of the Select Committee, see *ibid.*, p. 79 and for Proceedings in Council, see *ibid.*, pp. 50, 79 and 97.

Bom. Act 5 of 1862 has been declared not to be in force in the Pānch Mahāls—see the Pānch Mahāl Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code, p. 213.

(Secs. 1-2.)

practice of attachment and sale by civil process of the homesteads and building-sites ("gabhān") appertaining or appendant to the constituted bhāgs or the recognized sub-divisions of such bhāgs or shares, in bhāgdārī or narwādārī villages;

and whereas it is desirable to prevent the alienation, assignment, mortgaging, charging or incumbering of any portion of any bhāg or share in any bhāgdārī or narwādārī village other than a recognized sub-division of such bhāg or share, or the alienation, assignment, mortgaging, charging or incumbering of any homestead, building-site (gabhān), or premises appurtenant or appendant to any such bhāg or share, or recognized sub-division separately or apart from such bhāg or share or recognized sub-division;

It is therefore enacted as follows:—

1. No portion of a bhāg or share in any bhāgdārī or narwādārī village other than a recognized sub-division of such bhāg or share shall * * * * be liable to seizure, sequestration, attachment or sale by the process of any Civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such bhāg or share or recognized sub-division thereof, of any homestead, building-site (gabhān) or premises appurtenant or appendant to such bhāg or share, or recognized sub-division thereof.

No portion of bhāg in bhāgdārī or narwādārī village to be liable to seizure, etc. by process of Civil Court.

2. Whenever any process has issued out of any Civil Court for the seizure, sequestration, attachment or sale of any portion of a bhāg or share in any bhāgdārī or narwādārī village other than a recognized sub-division of such bhāg or share, or for the seizure, sequestration, attachment or sale of any homestead, building-site (gabhān) or premises appurtenant or appendant to such bhāg or share, or recognized sub-division thereof, it shall be lawful for the Collector or other chief revenue-officer of the district in which any such bhāgdārī or narwādārī village is situated, although not a litigating party, to move in such Civil Court, that such process shall be set aside or quashed, and that the provisions of this Act be put in force;

On issue of such process, Collector may move that it be set aside or quashed.

and if such Court be of opinion, on the evidence adduced by the Collector or other chief revenue-officer of the district on such motion, that the case is one falling within this Act, it shall set aside or quash such process, and cause the provisions of this Act to be put in force; * * * * any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

Court to set aside process if case fall within Act.

¹ The words "from and after the passing of this Act" were repealed by the Repealing Act, 1873 (12 of 1873).

² The words "and it is hereby further enacted that" were repealed by the Repealing Act, 1876 (12 of 1876).

Bar to alienation, etc., of any portion of bhāg in bhāgdārī or narwādārī village other than recognized sub-division thereof.

Power to remove person in possession of portion of such bhāg.

Limitation of suit on Collector's order.

Issue and execution of process in other respects authorized by law not barred.

Alienation, etc., of bhāg, or share, as aforesaid, if in other respects warranted by law, not barred.

3. It shall not be lawful to alienate, assign, mortgage or otherwise charge or incumber any portion of any bhāg or share in any bhāgdārī or narwādārī village other than a recognized sub-division of such bhāg or share, or to alienate, assign, mortgage or otherwise charge or incumber any homestead, building-site (gabhān) or premises appurtenant or appendant to any such bhāg or share or recognized sub-division, appurtenant or appendant thereto, apart or separately from any such bhāg or share, or recognized sub-division thereof.

Any alienation, assignment, mortgage, charge or incumbrance, contrary to the provisions of this section, shall be null and void; and it shall be lawful for the Collector or other chief revenue-officer of the district, whenever he shall, upon due inquiry, find that any person or persons is or are in possession of any portion of any bhāg or share of any homestead, building-site (gabhān) or premises appurtenant or appendant to such bhāg or share in any bhāgdārī or narwādārī village other than a recognized sub-division of such bhāg or share, in violation of any of the provisions of this section, summarily to remove him or them from such possession, and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto;

and any suit brought to try the validity of any order or orders which the Collector may make in such matter must be brought within three months after the execution of such order or orders.

4. * * * * *² Nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any bhāg or share, or recognized sub-division of any bhāg or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhān) and other proper appurtenances, if the issue and execution of such process be in other respects authorized by law.

5. * * * * *² Nothing in this Act contained shall be construed as prohibiting the alienation, assignment, mortgaging, charging or incumbering any bhāg or share, or recognized sub-division of any bhāg or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhān) and other proper appurtenances, if such alienation, assignment, mortgage, charge or incumbrance be in other respects warranted by law, the object and intention of this Act being to prevent the dismemberment of bhāgs or shares, or recognized sub-divisions thereof, in bhāgdārī or narwādārī villages and also to prevent the severance of homesteads, building-sites

¹ The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

² The words in ss. 4 and 5, "And it is hereby further declared, that" were repealed by the Repealing Act, 1873 (12 of 1873).

(gabhán) or other premises, appurtenant or appendant to bhágs or shares, or recognized sub-divisions of bhágs or shares, from the same or any of them.

BOMBAY ACT No. VI of 1862.

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